

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Plaintiff,

v.

OFELIA AREGUIN, et al.,

Defendants.

Case No.: 14-CV-03248-LHK

ORDER ADOPTING MAGISTRATE  
JUDGE'S REPORT AND  
RECOMMENDATION THAT CASE BE  
REMANDED, AND DENYING  
MOTION FOR SANCTIONS

The Court has reviewed Magistrate Judge Paul S. Grewal's Report and Recommendation ("Report") to remand the instant case to state court for lack of jurisdiction. The Report was filed and served on July 18, 2014. *See* ECF No. 4. The time for objections has passed, and Defendants have not filed any. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The Court finds Magistrate Judge Grewal's Report accurate, comprehensive, and well-reasoned and concurs with the Report's conclusion that the case should be remanded. ECF No. 4 at 3. Accordingly, the Court adopts the Report in its entirety, and thus remands this case to the Monterey County Superior Court.

On September 11, 2014, Federal National Mortgage Association ("Plaintiff") filed a motion to remand and for sanctions. ECF No. 6. The Court finds Plaintiff's motion suitable for decision without oral argument pursuant to Civil Local Rule 7-1(b) and hereby vacates the motion hearing set for December 18, 2014, at 1:30 p.m.

1 Having adopted Judge Grewal's Report as to the issue of whether the case should be  
2 remanded, the Court hereby denies Plaintiff's motion to remand as moot.

3 Regarding Plaintiff's sanctions request, Plaintiff requests that the Court sanction  
4 Defendants pursuant to Federal Rule of Civil Procedure 11 for filing "a frivolous notice of  
5 removal." *Id.* at 11. Plaintiff further contends that Defendants' notice of removal was an "abuse of  
6 Court processes to continue to have a free ride in her possession of the [subject property] and stall a  
7 lawful eviction action." *Id.* Defendants have not filed an opposition to Plaintiff's motion for  
8 sanctions.

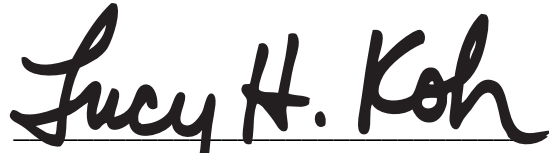
9 Federal Rule of Civil Procedure 11 permits the imposition of any "appropriate sanction" on  
10 any party that makes a pleading, written motion, or other filing that is, *inter alia*, frivolous, legally  
11 unreasonable, or brought for an improper purpose. Fed. R. Civ. P. 11(c); *Conn v. Borjorquez*, 967  
12 F.2d 1418, 1420 (9th Cir. 1992). "In determining whether to award attorneys' fees in cases  
13 involving improper removal by a pro se defendant, courts accord significant weight to the  
14 defendant's lack of representation." *Wells Fargo Bank, N.A. v. Lombero*, No. 12-CV-03496-LHK,  
15 2012 WL 4370362, at \*2 (N.D. Cal. Sept. 24, 2012) (quoting *Wells Fargo Bank, N.A. v. Hunt*, No.  
16 C10-04965JCS, 2011 WL 445801 at \*5 (N.D. Cal., Feb. 3, 2011)).

17 The Court declines to impose sanctions on Defendants. The Court accords Defendants, who  
18 are proceeding pro se, the benefit of the doubt that they did not realize their notice of removal was  
19 ultimately meritless. *See Hunt*, 2011 WL 445801, at \*5. Moreover, according to Plaintiff this is the  
20 first notice of removal Defendants have filed in Plaintiff's unlawful detainer action. ECF No. 6, at  
21 6-8. Defendants are hereby on notice that this Court lacks jurisdiction over Plaintiff's unlawful  
22 detainer action, and therefore a second notice of removal may be sanctionable. However, based on  
23 the record in this case and Defendants' pro se status, the Court hereby denies Plaintiff's motion for  
24 sanctions.

25 The case is hereby remanded to the Monterey County Superior Court.  
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1 **IT IS SO ORDERED.**

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3 Dated: December 16, 2014



LUCY H. KOH  
United States District Judge

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**United States District Court**  
For the Northern District of California